

# Education Service Bill

## NOTES ON CLAUSES

*Clause 1* is a provision in the usual form giving the title of the Bill, allowing for separate sections of the Bill to be brought into operation by separate proclamation, and outlining the various parts and divisions of the Bill.

*Clause 2* outlines the definitions which are to apply.

*Clause 3* explains how the Education Service is to be constituted, and outlines the categories of persons to be employed.

*Clause 4* provides for members of the teaching service and the public service to become members of the Education Service.

*Clauses 5, 6 and 7* explain how the Director-General may make appointments to the Education Service and *Clause 8* explains how these appointments will be subject to a probationary period.

*Clause 9* refers to the procedures by which the Director-General may employ, dismiss and discipline temporary staff.

*Clauses 10 and 11* give the Minister, subject to the operation of the Victorian Education Service Conciliation and Arbitration Commission, the power to determine salaries and conditions of work of all officers and employes in the Education Service.

*Clause 12* ensures that Appropriation Act covers determinations under the Act.

*Clauses 13 to 20* refer to direct negotiations and to the powers and composition of the Victorian Education Service Conciliation and Arbitration Commission in the negotiations process.

*Clause 21* gives the Commission the power to determine which groups or approved agents should be parties to particular disputes.

*Clauses 22 and 23* outline the actions with respect to conciliation that the Commission can take in attempting to solve disputes.

*Clause 24* indicates that the Commission may certify agreements arising from negotiations between the respective parties but is not bound to do so where it believes that the agreement is contrary to the public interest.

*Clauses 25 and 26* indicate that voluntary arbitration is available to the parties where the Commission believes that conciliation procedures have been completed without agreement being reached.

*Clauses 27 to 31* refer to methods by which the Commission will conduct its proceedings.

*Clause 32* explains how a determination becomes binding on parties to the proceedings.

*Clause 33* provides for a registrar and other staff to record the work of the Commission.

*Clauses 34 to 54* provide for leave and other entitlements for officers and employes of the Education Service. These entitlements are similar to those available to government officers and employes under the *Public Service Act 1974*.

*Clauses 54 to 57* relate to transfers of officers between the Public Service and the Education Service; all transfer, promotion and other rights of public servants are retained when they transfer to the Education Service.

*Clause 58* refers to the qualifications and experience necessary for the transfer and promotion of permanent officers of the Education Service.

*Clauses 59 and 60* provide for the filling of permanent teaching vacancies in schools; *Clause 60* provides particularly for Appointments Boards to make appointments to schools, and includes details of how such Boards are to be constituted.

*Clause 61* provides for School Councils to provide recommendations to the Appointments Board with respect to the appointment of Principals to schools.

*Clause 62* provides for provisional appointments, together with the Director-General's right to cancel a promotion in certain circumstances.

*Clause 63* gives the Director-General the right to transfer any officer in the public interest or in the interests of efficiency.

*Clause 64* sets out the procedures by which an officer may appeal against the provisional promotion of another officer to a position in the Education Service.

*Clause 65* indicates that in determining any appeal an Appeals Board must pay due regard first to the relative efficiency of two or more officers, then to the seniority of those officers.

*Clauses 66 to 75* refer to the discipline of officers of the Education Service. *Clause 66* gives the circumstances in which the Director-General can suspend officers; *Clause 67* describes how an officer can be guilty of an offence; *Clauses 68 to 74* outline procedures relating to charges against officers; *Clause 75* indicates how officers convicted of a criminal offence can forfeit their office.

*Clauses 76 and 77* refer to the powers of the Minister and the Director-General in the delegation of powers and functions.

*Clause 78* gives the Minister powers, subject to disallowance by Parliament, to make regulations with respect to any matter concerned with the organization, management or discipline of the Education Service.

*Clauses 79 to 84* are necessary transitional clauses to allow the Education Department to assume most of the roles of an employer immediately, and at the same time providing for the Teachers Tribunal to continue to function in a limited capacity until such time as the Negotiations process described in *Clauses 11 to 32*, and certain other sections of the Bill, can be fully implemented. In this regard:

*Clause 79* immediately repeals or amends all those sections of the Teaching Service Act not concerned with—

- (i) the determination of salaries and other remuneration for members of the Teaching Service;

- (ii) classification and appointment of teachers in schools;
- (iii) appeals by teachers and principals against school appointments made by classifiers; and
- (iv) appeals by members of the Teaching Service against disciplinary action now to be imposed by the Director-General.

*Clause 80* allows for the *Teaching Service Act 1958* to be repealed as soon as Division 2 of Part III of this Act—the Clauses relating to Direct Negotiations—comes into operation. Such repeal therefore provides for the Teachers Tribunal and the Public Service Board, the bodies currently responsible for salaries and conditions of work of all employes in the Education Department, to be replaced by the Victorian Education Service Conciliation and Arbitration Commission.

*Clause 81* is a saving provision in respect of regulations and determinations.

*Clause 82* provides for Appeals to be heard by the Teachers Tribunal or the Public Service Board's Appeals body until such time as the Education Service Appeals Board provided for in Division 3 of Part IV of the Education Service Act comes into operation.

*Clause 83* allows for all future appointments to be made under the Education Service Act for those Regional Directors who are initially to be appointed by the Governor in Council under an amended Clause of the *Education Act 1958*.

*Clause 84* is merely a machinery Clause, amending the *Public Service Act 1974* to allow for this Bill to operate for the Education Service.